

**Development Review Committee  
Staff Report  
November 18, 2015**



<b>Case No:</b>	15Cell1006
<b>Request:</b>	Cell Tower
<b>Project Name:</b>	VFW
<b>Location:</b>	107 Evergreen Road
<b>Owner:</b>	Middletown Post #1170, VFW of U.S. Inc.
<b>Applicant:</b>	Powertel/Memphis Inc, d/b/a T-Mobile/Branch Communications LLC/Branch Towers LLC
<b>Representative:</b>	David Pike, Pike Legal Group, PLLC
<b>Total Height</b>	155 feet
<b>Existing Zoning District:</b>	R-4
<b>Existing Form District:</b>	Neighborhood
<b>Jurisdiction:</b>	City of Middletown
<b>Council District:</b>	#19 – Julie Denton
<b>Case Manager:</b>	Steve Hendrix, Planning Supervisor

**Request**

This is an application for a proposed 150 foot monopole tower with a 5 foot lightning arrestor for a total structure height of 155 feet. The compound area is 2,500 square feet and will be screened by an eight foot high privacy fence.

**Case Summary / Background/Site Context**

The application was submitted on September 15, 2015. The Commission has sixty (60) days to act upon the uniform application, if not, and there is no written agreement between the Commission and the applicant to a specific date, the uniform application shall be deemed approved.

Applicant has agreed to extend the deadline date to December 4, 2015.

The proposed site is located on the northeastern corner of the VFW property, next to the Middletown Post Office and Middletown Plaza. The monopole will be 19 feet, 2 inches and the compound area will be 3 feet from the post office property line. The compound area will be 25 feet from the rear property line.

The compound area will be more than 170 feet from the rear of the residence that faces Evergreen Road.

The tower will not be lighted, will be galvanized steel and painted light gray or light blue, will be unmanned, and will only have the required signage.

The applicant is not showing any type of landscaping buffer.

The applicant has stated the likely effects of the installation on nearby land uses and values and has concluded that there is no more suitable location reasonably available from which adequate service to the area can be provided, and that there is no reasonably available opportunity to locate its antennas and related facilities on an existing structure.

### Land Use / Zoning District / Form District Table

	Land Use	Zoning	Form District
Subject Property			
Existing	VFW Post	R-4	Campus
Proposed	VFW Post with Cell Tower	R-4	C
Surrounding			
North	US Post Office	C-1	C
South	Single Family Residences	R-4	Neighborhood
East	Middletown Plaza	C-1	Suburban Marketplace Corridor
West	Single Family Residences, Vacant Lots, Antique Store	R-4	Neighborhood

**Note:** The following information represents staff analysis of the subject property with respect to site inspection/observation, sound planning practices, and adopted policies and regulations of the jurisdiction. Materials submitted by the applicant or their representative prior to the deadline for filing information related to cases docketed for this hearing were reviewed and specifically applied in the staff review of this request. The Planning Commission is advised to consider this staff report as well as new information introduced at the hearing in formulating their decision.

#### Standard of Review

Criteria for cellular towers:

- 1) The Planning Commission shall review the application in light of its agreement with the Comprehensive Plan and the Land Development Code;
- 2) The Planning Commission shall make its final decision to approve or disapprove the application;
- 3) The Planning Commission shall advise the applicant in writing of its final decision within 60 days of submittal of the application.

**State law precludes the Planning Commission from denying a cellular tower application based upon concerns about electromagnetic field issues so long as the provider adheres to the standards adopted by the FCC.**

In addition, the Federal Telecommunications Act of 1996 prohibits a citing decision for a cellular tower based upon the existence of other cellular service in the area.

## **Staff Findings**

### **Relationship to Comprehensive Plan - Cornerstone 2020 Plan Elements:**

#### **3.1 Compatibility**

Ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development.

The compound area will be screened with an eight foot high privacy fence. The post office is north of the site, Middletown Plaza is east of the site, and the VFW building is south of the site. A single family dwelling is approximately 170 feet to the west. Some type of evergreen is suggested to buffer the compound area from that single family residence and residences across Evergreen Road.

#### **3.9 Visual Impacts**

Protect the character of residential areas, roadway corridors, and public spaces from visual intrusions and mitigate when appropriate.

As mentioned above, the compound area needs to be buffered from the residences along Evergreen Road that are located west of the proposed site.

#### **3.22 Buffers**

Protect the character of residential areas, roadway corridors, and public spaces from visual intrusions and mitigate when appropriate. Mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, junk, outdoor storage, and visual nuisances. Same as above.

#### **3.30 Cellular Towers**

Establish and enforce standards for the placement, height, design, and buffering of antenna towers for cellular telecommunications services and personal communications services. Antenna tower location and design must consider the effect of the tower on the character of the general area in the vicinity of the tower and the likely effects of the installation on nearby land uses and values. Issues that must be addressed include the necessity for the tower, co-location possibilities, design, mass, scale, siting, and abandonment and removal of antenna tower structures.

The applicant states that there are no other suitable or willing co-locatable structures or structure owners identified within the vicinity to meet the coverage objectives. The applicant states they have considered the likely effects of the installation on nearby land uses and values and have concluded that there is no more suitable location reasonably available from which adequate service can be provided. The applicant further states that the proposed facility has been designed to accommodate additional wireless telecommunication carriers, thus reducing the need for additional towers in the area in the future.

### **Community Facilities**

#### **15.21 Antenna Towers for Cellular Telecommunications**

Cellular towers should be designed to:

--- minimize impact on the character of the general area concerned,

---be sited in order from most preferred to least preferred :

1. highway rights-of-way except designated parkways;
2. existing utility towers

3. commercial centers
4. governmental buildings
5. high-rise office structures
6. high rise residential structures

---minimize the likely effects of the installation on nearby land uses and values;

---be designed to address compatibility issues such as co-location, mass, scale, siting, abandonment and removal of antenna tower structure.

Although the tower will not be located in a commercial center, its proposed location and the adjacent corner properties meet the intent of the regulations.

However, the site needs to be buffered from the single family residences to the west along Evergreen Road.

Technical Review-- None

### **Staff Conclusion**

The applicant is requesting a wireless communications facility to better serve the public and to provide co-location opportunities for other carriers. The proposed location is within an R-4 zoning district.

The monopole will not be lighted, will be galvanized steel painted light gray or light blue, be unmanned and will only have the required signage.

The applicant has submitted the required information concerning the reasoning and need for this particular location.

The applicant has met the applicable requirements of the Comprehensive Plan and the Land Development Code with the condition that some type of evergreen planting be installed to buffer the compound area from the single family residence at 111 Evergreen Road and residences across the street.

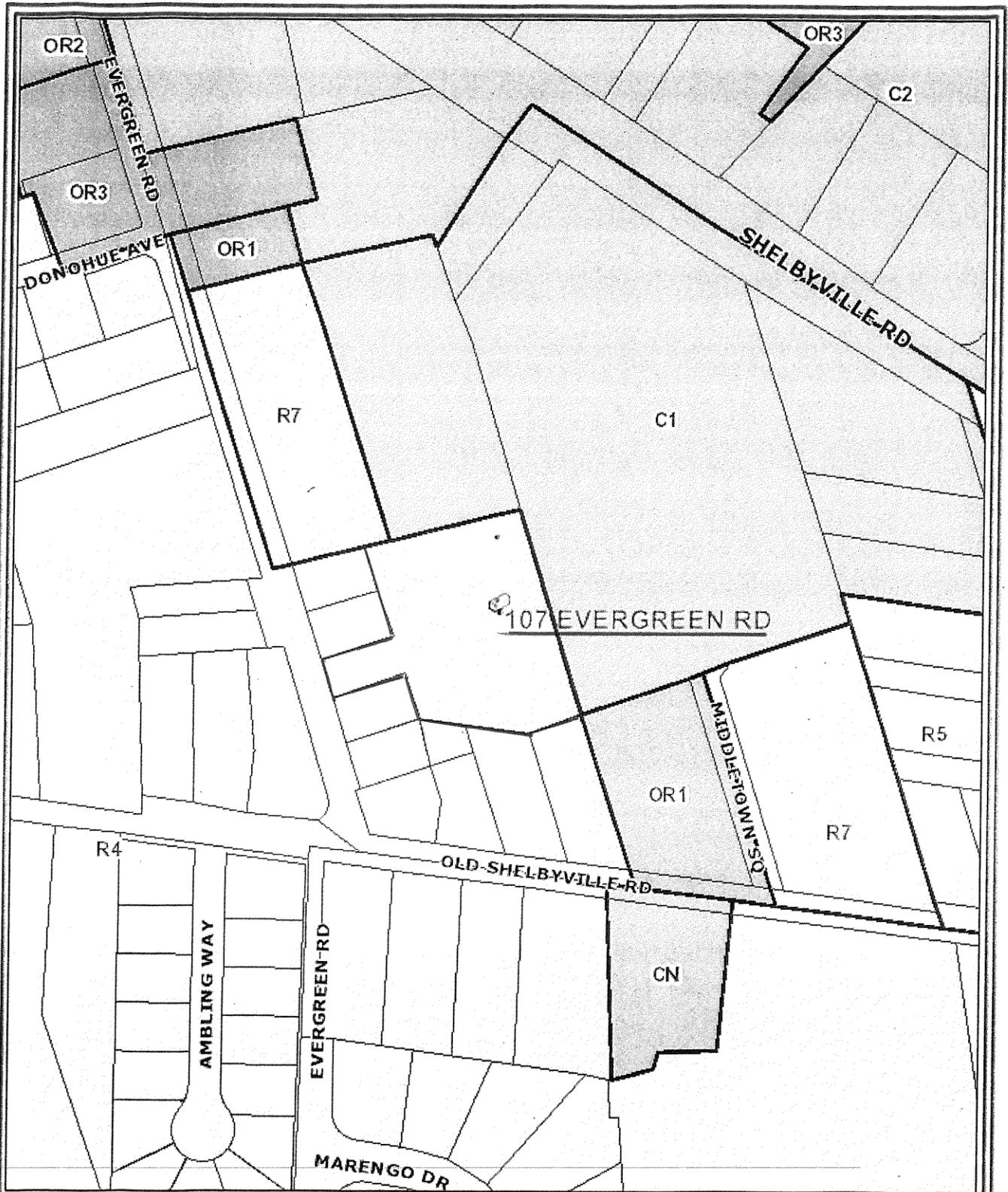
Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the must determine if the proposal meets the standards for granting a cell tower established in the Land Development Code and the Comprehensive Plan .

### **Notification**

<b>Date</b>	<b>Description</b>	<b>Recipients</b>
November 5, 2015	Neighborhood Notification	Registered Parties
November 5, 2015	APO Notices Ready	Adjacent Property Owners

### **ATTACHMENTS**

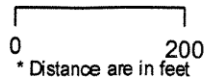
1. Proposed Location/Zoning Map
2. Aerial Photograph Map
3. Applicant's Justification
4. Site Plan
5. Pictures



# 107 Evergreen Road



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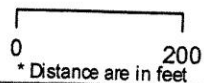
Plot Date 10/26/2015



LOJIC Quickmap

# 107 Evergreen Road

Plot Date 11/5/2015



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May 19, 2015

Re: Proposed T-Mobile Wireless Communications Facility  
Site Name: 9LV1058C

To Whom It May Concern:

The purpose of this letter is to state the need for a new T-Mobile Wireless Communications Facility to be built on the VFW site located at 107 N Evergreen Rd, Louisville, KY. The tower is necessary to meet coverage and capacity needs in the commercial and residential areas in Woodland Hills, Middletown, Anchorage and Douglass Hills, as well as to provide coverage and more capacity along Route-60(Shelbyville Rd). The only viable solution is a new tower as there are no other suitable structures for collocation. This site will provide the wireless voice and data experience that T-Mobile customers rely on. It will also provide critical safety support through enhanced 911 services.

This site has been designed and will be constructed and operated in accordance with all applicable requirements and regulations set forth by the various agencies that manage them including the FAA and the FCC. This site will transmit within the licensed frequency bands owned by T-Mobile and will adhere to FCC regulated power limitations. RF emission readings in the accessible areas will be below the FCC limits for exposure. Appropriate RF emission signage will be placed at the entrance to the site.

Sincerely,

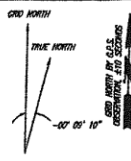
A handwritten signature in black ink, appearing to read 'Kevin Blewitt'.

Kevin Blewitt  
Senior Engineer, RF Deployment  
T-Mobile USA





HEET 3  
 USED EASEMENT AREA  
 1. DESCRIPTIONS  
 2. ZONE DATA



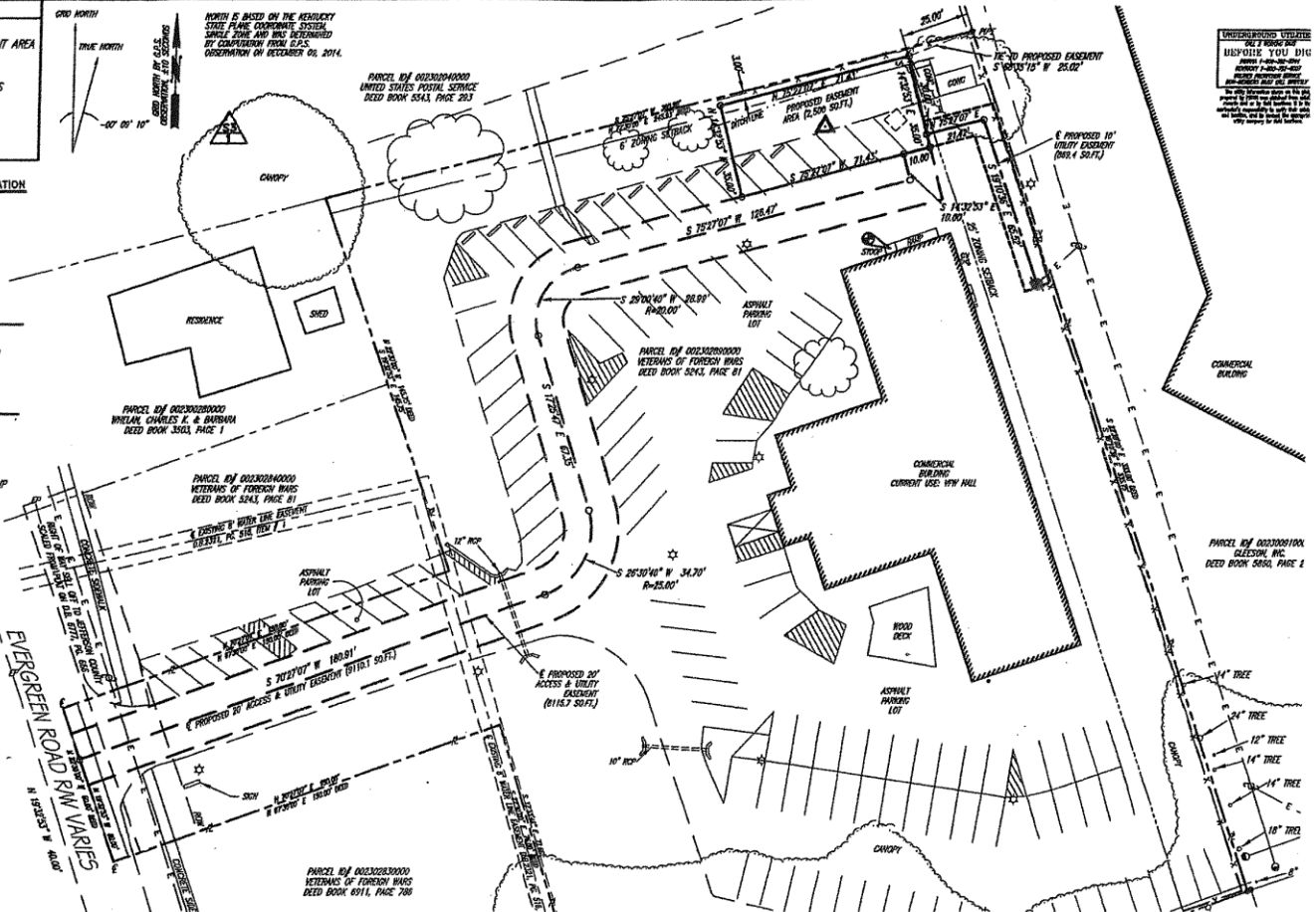
NORTH IS BASED ON THE KENTUCKY STATE PLANE COORDINATE SYSTEM. SMALL ZONE AND HAS BEEN DETERMINED BY COMPARISON FROM G.P.S. OBSERVATION ON DECEMBER 08, 2014.

3. POINT LOCATION  
 1. 14' 44.27"  
 2. 31' 44.19"  
 3. 55' ANSL. COORDINATE  
 7211.05  
 1733.39  
 4. OWNER POLE  
 V#: LGAE  
 F#: 49141-87801

5. BENCHMARK  
 65.430  
 1.520  
 7.16' ANSL.  
 THE CENTER OF SP AT TOP OF RAMP THE NORTH SIDE BUILDING.

6. SYMBOLS  
 ND  
 1. POLE  
 2. BENCH  
 3. W (WIRE NOTES)  
 4. W (WIRE NOTES)  
 5. 1  
 6. 2  
 7. 3  
 8. 4  
 9. 5  
 10. 6  
 11. 7  
 12. 8  
 13. 9  
 14. 10  
 15. 11  
 16. 12  
 17. 13  
 18. 14  
 19. 15  
 20. 16  
 21. 17  
 22. 18  
 23. 19  
 24. 20

18. OVERHEAD ELECTRIC  
 19. UNDERGROUND GAS LINE  
 20. UNDERGROUND WATER LINE  
 21. OVERHEAD ELECTRIC & TELEPHONE LINE  
 22. OVERHEAD TELEPHONE LINE  
 23. EXISTING FENCE  
 24. SUBJECT PROPERTY BOUNDARY  
 25. RIGHT OF WAY CENTERLINE  
 26. EMBANKMENT OR LIFESTYLES DO NOT NECESSARILY SHOWN(S). USE ONLY AS APPLICABLE



UNDERGROUND UTILITIES  
 SEE RECORDS  
 UNLESS YOU DIG  
 YOU WILL BE RESPONSIBLE  
 FOR ANY DAMAGE TO  
 UNDERGROUND UTILITIES  
 OR PERSONAL INJURY  
 OR PROPERTY DAMAGE  
 CAUSED BY ANY SUCH  
 ACTS. THE USER OF THIS  
 PLAN IS NOT TO BE  
 HELD RESPONSIBLE FOR  
 ANY SUCH DAMAGE OR  
 INJURY AND IS TO BE  
 HELD RESPONSIBLE FOR  
 ANY SUCH DAMAGE OR  
 INJURY CAUSED BY  
 ANY SUCH ACTS.

LAND SURVEYOR'S CERTIFICATE  
 Type "A" Survey - Mediated Near Inverse closure: 1 in 25,000.  
 TO ALL PARTIES INTERESTED IN TITLE TO PREMISES SURVEYED  
 I hereby certify that this plot and survey were made under my  
 supervision, and that the reports and linear measurements,  
 as witnessed by monuments shown hereon, are true and correct  
 to the best of my knowledge and belief.  
 This survey and plat comply or exceeds the minimum standards  
 of the governing authorities.  
 This property is subject to any recorded easements or right  
 of way and shown hereon.  
 Frank L. Sellinger, No. Reg. No. 3262

STATE OF KENTUCKY  
 FRANK L. SELLINGER  
 3262  
 LICENSED  
 PROFESSIONAL  
 LAND SURVEYOR

SURVEYOR'S NOTES  
 SOURCE OF BEARING IS A G.P.S. OBSERVATION ON DECEMBER 8, 2014.  
 SOURCE OF BEARING BASED ON THE SOUTH PROPERTY LINE OF THE  
 VETERANS OF FOREIGN WARS PROPERTY HAVING THE BEARING OF  
 S 87°00'00" W PER G.L.B. 3243, P.C. 41, AND THE CALCULATED BEARING  
 S 70°29'23" W.  
 SEE SHOWN SUBJECT TO RIGHTS OF WAY AND EASEMENTS SHOWN  
 HEREON OR MAP.  
 NO SEARCH OF PUBLIC RECORDS HAS BEEN PERFORMED BY THIS FIRM  
 TO DETERMINE ANY DEBITS AND/OR ENCUMBRANCES IN THE TITLE OF  
 THE PROPERTY SHOWN.  
 THIS DRAWING DOES NOT REPRESENT A BOUNDARY SURVEY.  
 EXISTING CONDITIONS ARE AT ONE FOOT INTERVALS.



I HAVE REVIEWED THE FLOOD INSURANCE RATE MAPS (FIRM) MAP  
 NO. 21117C0048B, DATED 12/05/2008 AND THE PROPOSED EASEMENT  
 AREA DOES NOT APPEAR TO BE IN A FLOOD PRONE AREA.  
 THE PROPOSED LEASE AREA IS LOCATED IN ZONE "X".



View from Evergreen Road. (Proposed location –white sign on left hand side)



Closer view, looking east. White rectangle is the subject site.  
Post office parking to the left (north) and the back of the Middletown Plaza stores (east).



Looking north toward post office property.



Looking east toward Middletown Plaza.



Looking south, VFW Post building.



Looking west toward single family residences along Evergreen Road.